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FROM THE BOARD

In recent years the *Law Forum* has steadily advanced in both its quality and appeal within the legal community. At present the *Law Forum* is distributed to over eight thousand attorneys, judges, legislative representatives throughout Maryland, and to law schools and libraries throughout the United States. Our increased popularity has further led to an increase in the number and quality of articles submitted by the professional community.

The *Law Forum* would like to express its gratitude to the legal community for the support we are receiving. A special thanks goes to William R. Levasseur, alumnus and friend, for his contributions to the production of this issue.

In the first article in this issue, "Exclusive Remedy Under Workers' Compensation: An Update on Exceptions to the General Rule," Stephen A. Markey, III, brings to date the modern theories used to avoid the general exclusivity of remedy rule in Workers' Compensation.

In "Maryland's Workers' Compensation System—Out of Control," the Honorable Martha S. Klima points out a number of the problems presently plaguing Maryland's workers' compensation system and suggests ways to solve some of those problems.

Donald T. Decarlo, Esquire, in his article "American Workers' Compensation—After the Crossroads," examines the various phases of evolution through which the American workers' compensation system has travelled and gives his insight on where the system will go in the future.

In 1985 the Court of Appeals of Maryland examined the effect of § 58 of the Maryland Workers' Compensation Act on the tolling of limitations in third-party suits. Matthew I. Lynn addresses this decision in "Limitations on Workers Bringing Third Party Actions Under Section 58 of the Workers' Compensation Act."

Daniel J. Freedenburg, M.D., discusses the recent trends in the area of work related health problems in "Stress in the Work Place."

In 1986 the Task Force on Injured Workers' Rehabilitation distributed a questionnaire to help assess the attitudes of various professionals regarding vocational rehabilitation under Maryland's Workers' Compensation Act. The results of that questionnaire are contained in this issue.

In this issue there is also a Recent Developments section containing concise articles on recent decisions relating to workers' compensation.

THE

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LETTER TO THE EDITOR

In the spring 1986 issue of *The Law Forum*, Patricia A. Cleaveland, J.D., reviewed the recently enacted § 9-102 of the Courts & Judicial Proceeding Article. The purpose of this statute is to reduce the trauma to a child sexual abuse victim when testifying in court and to avoid "in person" confrontations with the alleged defendant. It has been suggested that such an experience is in itself so traumatic as to constitute a "second victimization" of the child. What Ms. Cleaveland failed to point out was the victimization of the occasionally wrongly accused defendant.

Our contemporary courts have been lax in their sensitive responses to the ever increasing incidents of child abuse and child sexual abuse. The community cries out for "immediate justice" to this repugnant form of deviant behavior. The alleged perpetrator in Maryland is tried in criminal court with a possible maximum prison sentence of fifteen years.

No matter how repugnant the behavior, defendants are still innocent until proven guilty. One must be especially careful in "pointing the accusing finger" since defendants state once indicted they feel completely devoid of basic rights and dignity. Guilty or innocent the stage is set for a witch hunt. Shame, humiliation, family and career turmoil often develop following such accusations.

Due to its recent enactment, § 9-102 has not yet been constitutionally tested in Maryland; however, the following are some of the criticisms by attorneys involved in trials where § 9-102 has been used:

1. *Prejudice* may be charged by the defendant in that the placement of the alleged child victim in a special out-of-court room may convey to the jury the implication that the child must have suffered prior trauma in order to have developed such intense fear of the court room and the alleged defendant. Conversely, due to a child's maturity and self-control, does the rejection of the need for a special room indicate to the jury that the child may have had less trauma?

2. Attorneys in the special out-of-court room lose the benefit of observing judge and jury behavior and attitude to help guide them in their style of questioning.

3. The technical transmission of T.V. requires bright lights, expensive sensitive cameras manned by high tech personnel. The skill of the camera man may heighten or diminish transmission of the behavior or voice of the child witness. Such behavioral variations, as blushing, perspiration, tics, posturing, etc. may contribute to the court's evaluation of witness credibility. This may be missed or lost in T.V. transmission.

4. By placing the child in the special out-of-court room with its T.V. equipment and personnel, are we significantly diminishing further traumatization of the child? Who has made such an evaluation and what are the criteria of judgment? Would *all* child sexual abuse victims be automatically assigned to such rooms?

With these criticisms in mind I question the constitutionality of § 9-102. Even assuming the constitutionality of the statute, have we significantly diminished traumatization of the child or have we simply substituted one frightening situation for another?

Robert S. Coplan, M.D.



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